

# Tracking Deepfake Legislation – Two-Part Series

Episode #112 & #113



Podcast Transcript

# Tracking Deepfake Legislation – Two-Part Series (Transcript)

## *Sen. Nguyen on WA's A.I. Task Force (Tracking Deepfake Legislation (Part 1))*

00;00;05;03 - 00;00;25;17

### **Geoff Pallay**

Welcome to On the Ballot with Ballotpedia, where we connect people to politics by providing neutral, nonpartisan and reliable information on our government, how it works, and where it's headed. I'm Geoff Pallay, and thanks for being with us. We've got two episodes for you today! You'll hear my interviews with two elected officials for the very first time in the show to help us launch Ballotpedia's Artificial Intelligence Deepfake Legislation Tracker.

This new one of a kind tracker, officially our third, by the way, will provide insight into the current status of legislation addressing deepfake technology in state legislatures across the country, surveying historical trends in this policy area. Both of the legislators we had on the show, one Democratic and one Republican legislator, have sponsored bills on deepfakes, and we thought inviting them on would be a great way to provide some more insight.

Not only on what is being discussed with this legislation, but on how the different states and different parties are thinking about addressing this really new and emerging area of politics related to artificial intelligence innovations and challenges. Let's quickly get caught up. What are deepfake exactly, anyway? You may be wondering. So deepfakes we define as videos, images or audio files that have been generated or manipulated by artificial intelligence in order to realistically portray something that did not actually occur.

That's a pretty technical definition, but you can imagine what it really looks like then. And as this technology has emerged, public policy organizations, lawmakers and journalists have addressed concerns related to the use of deepfake technology. Whether we're talking about the proliferation of child sexual abuse material and other nonconsensual consensual sexual content, or the distribution of deceptive political communications and election disinformation or property rights infringement, harassment and fraud, and threats to national security. Even the list of use cases goes on and on.

This is a really emerging area. We've seen four times as many bills enacted this year than in the prior four years combined. So far, 480 bills have been introduced in just the first six and a half months of this year alone. So as the technology advance, lawmakers navigates are having to think through how does our government want to govern and regulate deepfakes. This is a really interesting new emerging policy area, and we're excited to delve into it with two legislators on this show today. And we hope listeners out there will make use of our new AI deepfake legislation tracker at ballotpedia.org. Now let's get to the show.

Part one will be with my conversation with Joe Nguyen a Democratic member of the Washington State Senate representing District 34.

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Senator Nguyen sponsored Washington State Senate Bill 5838, which established an artificial intelligence task force that will explore different use cases, think through how to address developments like deepfakes and set the standard for where Washington state wants to go with respect to AI regulation. If you like this episode and don't want to miss out on conversations like this one, make sure to like and subscribe to the show wherever you listen to podcasts.

And now here's my conversation with Senator Nguyen!

00;03;06;19 - 00;03;23;23

**Geoff Pallay**

Senator Nguyen, thanks so much for coming on the show.

**Senator Joe Nguyen**

Thank you so much for having me.

**Geoff Pallay**

So we're excited to talk about this really interesting and new developing legislation area around deepfakes. Can you tell me a little bit about how you and your colleagues decided to create your task force with SB 5838? Was there a tipping point that triggered you all into action? Has it been on your radar for a little bit of some time as a continuation of some prior legislation?

00;03;23;25 - 00;03;41;02

**Senator Joe Nguyen**

Just gonna walk us through how we got here in Washington. Yeah. So this topic we've been working on for quite a while, if I'm honest as well. So the AI component, candidly, is very new.

Obviously it's newsworthy now because a lot of folks top of my AI as it relates to synthetic media or deepfakes. But there was a former senator, David Frost, who was also from the Seattle area that had been concerned around manipulation of social media posts using deepfakes in general. So he had ran bills previously. He had ran a bill a few years ago around, the prohibition of deepfakes—that version didn't pass. But next, the very next year was just short session. So the more of a timing the anything. So Senator Valdez actually passed the version that David Frost had introduced, saying that you cannot use impersonations, on political ads. That's a violation. Just to make a very clear line and then we continued that actually last year where one of the senators, Mark Mullet, his daughter, the school that she was attending after homecoming, had an incident where some folks were using deepfakes to bully, some of the students that were there.

So that was part of the whole effort around just mitigating deepfakes and ensuring that the protections that we have currently in law also extended safe, for instance, to the AI space. So this has been going on for, quite some time. And the, the concept itself isn't new.

The thing that's interesting now is that with AI, obviously the manipulation becomes much easier

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to do and much more realistic as well. Yeah. And I think as we found out, prior to this call, with both of us being parents of young kids, that was particularly, prescient and interesting to us, as we think about that, for our own personal, hearts and lives.

00;05;18;24 - 00;05;55;19

**Geoff Pallay**

What was the process like for putting your bill together? was there at some broad consensus over it? Was it more complicated and nuanced there, or do you find that there's some some pretty, bipartisan back into this issue?

00;05;55;21 - 00;06;16;11

**Senator Joe Nguyen**

Yeah. So what's fascinating around the deepfakes or just manipulation of media in general, because of national politics, there's certainly a tension associated with it where, candidly, there's one party that believes that this is our free speech, that this is necessary, that it was okay and end up being, a fairly contentious bill, but ended up being bipartisan at the same time.

In terms of the deepfakes bill. what I will note is that I've traveled around the past couple of years just as the chair of the Environment, Energy and Technology Committee, and I've had a couple of folks where completely unrelated to technology. I'll be at a conference and somebody says, hey, you're from Washington State. We wanted to do a deepfake bill because we feel this is a threat to our democracy.

And they were actually members of the Republican Party as well. So I think this is now kind of a bipartisan viewpoint in that you shouldn't have fake media associated with our campaigns in our elections. I will say that that's more of the the folks that are more pragmatic, potentially folks that kind of wanted to preserve our democracy. They're still a very vocal contingent that use it for the purposes that we do not intend. So I work a lot on our campaign side, and I had some staff go to a consulting conference around, campaigns, and there was a panel about AI, and I will just say there was one. It was bipartisan. There were Democrats, Republicans who are there.

And I will just say that there's one group of people that wanted to use AI to do language translations, to have more robust engagement, to be more thoughtful around communications. And there was another that literally said, we use it for deepfakes, like we do use like it wasn't like, this is not a oh, they're hiding. They might be doing something like this.

It was a we use this for deepfakes and we're going to deploy it in order to swing elections. and I'm not trying to be Partizan in this conversation, but that it was very it was very interesting to me that not only was it something that was happening, it was almost encouraged and that people felt very comfortable just saying publicly.

00;07;38;01 - 00;07;55;22

**Geoff Pallay**

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And it is very interesting now and it is interesting, you know, you have a blending of this issue where, you know, when we've been going through the bills and we've seen, hundreds of bills and the legislative session this year, which is almost four times as many bills as last year, and we kind of group them into, different buckets.

There's a there's a pretty strong pattern that comes here, which is that you have a lot of bills focused on political communications. Now, a lot of bills focus on, you know, sexual imagery, things like that. And sometimes those bills blur, though. And what have you seen as someone who's been active in this space? Are they is the issue being split, or do you find that the legislation is actually kind of you blurring the two topics together, which, to your point, might introduce some more of the political elements to it as opposed to, you know, there are some groups who are just trying to focus on, you know, the teenage bullying or the sexual side of things. So, yeah. What do you see on that front?

00:08:51;29 - 00:09:15:01

**Senator Joe Nguyen**

In Washington State's case, they were split. So the version around political speech and impersonations was separate from the version as it relates to, the the harm that could be caused by sexual harassment, essentially is what was happening. And it wasn't.

I don't think it was like a conscious decision to split them up. I think, what happens is, you know, oftentimes, as you see in the legislation, an issue arises, whether it's national or local, and somebody drafts a bill in response to that particular issue. So the first one I just happened to be during, you know, the presidential elections in 2020, we saw a lot of deepfakes happening and political spaces.

We saw a lot of misinformation online. So that bill was specifically targeting those efforts. And then it wasn't until I came out and the ability to use deepfakes in inappropriate ways. we had members who were impacted by it. Their families were impacted by it. So that bill was ran separate. So in terms of why they were separate or so or why they might be blended together, it probably was a timing issue where we tend to be pretty progressive on these types of policies in Washington state.

So as they happened, we probably responded right away. What I will say is that, you know, as a legislator who has a leadership role in some of these policies, I've noticed that there's probably five states that have governments that either are fully staffed, meet on a regular basis, have legislators who have some level of support associated with them as well.

So what happens is you'll see a lot of these bills start in one of these five states, and then they make their way to the other states. and timing is really the key, right. So some states meet every other year. So in those states and every other year, you have a lot of legislators who are probably volunteer and don't have staff.

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And what they do is they just look at bills in that topic area and say, hey, Washington did this, California did this. Let's put them together, because we only meet once every other year and we'll go to both. So I wonder if you look at the trends in terms of the bills that are broken out together, if that probably impact it.

00;10;38;21 - 00;11;08;03

**Geoff Pallay**

That is a really interesting point. And that's probably something that our legislation tracker will allow people to hopefully get to, to do on a, on a more easily accessible basis. going forward. And I guess I'm kind of wondering about, the legislation and model legislation, so to speak, because in so many different policy areas, you know, on all sides of the aisle, there are, you know, groups that are activists that are at the forefront, that development of legislation or/ or oppose legislation – it'll probably depend on the issue on all sides of the political spectrum. It happens. And I'm curious, what have you seen in this space, you know, are there are there advocacy groups leading the the effort here, or is it sort of like a one state's kind of working on their own, trying to come up with legislation and other states are just sort of trying to mimic that, or is there a national effort here at all?

00;11;27;17 - 00;11;47;03

**Senator Joe Nguyen**

Not at least in the difficult time. I know the ACLU has been heavily involved in some of these things, and I think the in our case, the Secretary of State was involved. You know, candidly, from my perspective, the legislators who were working on this have been doing it for a long time before became kind of in the forefront just because I knew how this works. I suspect their problem was a national organization that likely maybe it was the ACLU or somebody like that because they they do a good job in terms of ensuring that we have our rights protected. but I don't know of a particular effort behind it. What I will say is that the call, the coalescing, some of the Republican folks, I'm not trying to pick on them by any means, but some of the talking points that we heard seemed very similar to things that are being said at the national level.

So I don't know if that was a concerted effort or if that was just a, you know, general ethos that kind of pervaded itself in the legislature as well. but to be clear, I mean, lots of bills happen because of national efforts or local efforts that are pushed by particular special interest group. This one seem to me to be organic, just because the member who was doing it had been doing it for a while.

00;12;37;07 - 00;12;49;00

**Geoff Pallay**

what does history tell us about this kind of thing? Like when the internet first came out and you were first starting to regulate the internet, there were probably similar conversations like, well, you can't even teach a certain generation what the internet is, how are we going to regulate it?

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00;12;49;00 - 00;13;16;17

**Senator Joe Nguyen**

Well, anyways, 230 at that comes into play here because then the enforcement component is actually the key. So do you say, hey, app company that lets you make these new deepfakes? Are you liable for this because there are people who use that for their own personal reasons, legitimately, or the deep fakes aren't meant to be nudes.

It was supposed to be like, you put your face on whatever Hulk Hogan's bot, you know, he's like, whatever, whatever happened. But somebody decided to do it inappropriately. I think that's going to be the frontier in which we're going to battle. It's the liability. Is the platform liable? And then what type of enforcement is going to be the technology component is usually moot.

that's not really an issue in terms of, you know, yeah. A deleted. Yeah. Those things, it's what happens when they don't comply. So I think the fight is going to be who is liable. And then after you define who is liable, you're going to define is it a private right of action or a general enforcement. I think that's what's going to happen.

Yeah. And we've seen some bills around enforcement as well. because speaking directly to that point. Yeah. So it's always important I wrote the data privacy bill that's been, passed into law, in like 18 other states. We couldn't pass it to Washington state. And the funny part was, I was so naive. I just wrote a bill saying, this is what data privacy should probably look like.

And I ignored the enforcement component because I was like, I'm not a lawyer. I don't really care. That ended up being what tanked the bill. And then other states have passed almost verbatim. That bill just tweaking the enforcement component in force and sell most everything. Right. There's everything on on a large and small scale.

00;15;01;01 - 00;15;18;28

**Geoff Pallay**

We have, I like to finally endorse and stories that I was thinking about in California, they have a really hard time getting local counties to report election results up to the state. And the secretary of state's always told us they don't have any enforcement mechanisms. So they can ask counties, can you please tell us your local election results, which you are supposed to statutorily do, but they can't meet them. They don't even get enforcement mechanisms there. So yeah, we go to the secretary saying we look for results from them. They said we want to always have them. We can't make them give us and it's like you're if you're Grandma or if your parents are watching your kids and they want to give the kid a cookie, they're going to give them and they're going to give them a cookie. You might tell them not to, but when you're not there, they will.



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00;15;38;01 - 00;15;56;28

**Senator Joe Nguyen**

So like that's actually the key. I don't think you're going to find too many people who say, well, you may find some just because of our electoral politics happening right now, but I think most folks generally agree deepfakes are bad for politics. Deepfakes are bad for our society. There are some people who say, well, if it's there, I'm going to use it to my advantage. The key to regulating that is not so much that it's good or bad, and it's, well, what happens with the enforcement component, because you're going to find some people who also think it's bad but don't want a right of action. So functionally nothing happens.

00;16;00;28 - 00;16;25;08

**Geoff Pallay**

Got it. Yeah, yeah. Interesting. So where do you, like I mentioned earlier, you know, there's been a big increase this year. We tracking, about three times as many enacted bills this year. Where last year we tracked 12 last year, and 45 so far, nationally this year. And it's just, you know, halfway through the, the sessions, and they're, you know, they're pretty split.

You know, we see these bills and drop out of trifecta, the Republican trifecta and divided government. Where do you see this going in the future? In Washington state and then nationally?

00;16;34;20 - 00;16;53;22

**Senator Joe Nguyen**

What's interesting as it relates to this topic specifically, really it's starting to move towards AI and impacts AI as it has on in first iteration deepfakes. Because part of the concern, honestly was around doing deepfakes as a whole. But now it's so easy to do that we're wanting to get ahead of some of those dynamics.

And when you talk about AI, it's such a broad topic to be able to encompass that oftentimes the education, the awareness is the key. So that's why we have the AI task force. I think there's a number of topic areas as it relates AI that needs to be addressed. And then for us are the timing was GPT two came out basically at the end of last session.

You really only have a short interim in order to figure out what the policies look like, in addition to everything else that you're doing. But these are very deep and robust conversations that need to be had. So instead of trying to rush bills out to address deepfakes or AI, or how it impacts labor or things like that, we really wanted to make sure that we had a focused effort to ensure that these conversations are done in a thoughtful way.

So, I know that Oklahoma has an AI task force then had their findings as well, which is interesting. And for us, I think we'll we'll probably take a deeper dive as it relates some of this technology and the recommendations we made before the next session. So TBD if I'm honest. But I think the energy is definitely there.



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00;18;00;25 - 00;18;27;23

**Geoff Pallay**

Yeah. And do you see more, more activity on the, the political communication side of this or on the pornographic materials non CSAM side, or do you think it's actually ended up being on both?

00;18;27;23 - 00;18;49;12

**Senator Joe Nguyen**

I think it's on both. I think it'll be on both because I think, you know, come November, what I think will happen is a week before the elections, you're going to see a ton of this happening out there in very nuanced ways.

And it's probably going to upset people on both sides of the aisle. Yeah, usually when that happens, that leads to bills very, very quickly. So right now it's kind of the wild, wild West. There's really no regulation and there's no way to identify synthetic media. I know that there are efforts around there to do it. there's companies I mean, I've met with three startup companies in the past couple of weeks that are doing this.

So there's one call out in Seattle where if you are a celebrity or politician or the family members of one, they will scan your face, search the internet every single day. And if they find something that is fake, which you can tell it's fake as a the algorithms, they'll pull it down. And there's another one called Truth Media where, they basically scrub the internet in a very similar way, and they will alert folks if there's something happening that seems to be related to you, but it's fake.

So we're seeing a number of these, and there's another company that does it specifically for sexual assault and sexual violence situation as well. the name escapes you, but I just met their CEO the other day. She was a victim of cyberbullying and online harassment and these types of efforts. So they've created a company that basically would help women mitigate this and get it pulled off the internet.

So the fact that you're seeing private dollars going into this and the fact you're seeing kind of this ramp up that's happening, that suggests to me that there will be more policy associated with it now. Yeah. And mixture of reactionary and proactive, it sounds like what you're saying. So, that's a very, well, a very interesting I appreciate all of your, thoughts and observations about this is growing issue, and I hope that our deepfake legislation tracker will be will be useful, as a resource to, readers, activists, anyone else who's trying to learn more about this, this really growing, policy in our country.

00;20;16;28 - 00;20;24;16

**Geoff Pallay**

So, I wanted to thank you so much for your time and for coming on the show today.

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00;20;24;16 - 00;20;34;23

**Senator Joe Nguyen**

Thank you so much for having me. I appreciate it.

00;20;34;23 - 00;20;42;12

**Geoff Pallay**

Thanks for listening to that episode with Senator Wynn. Stay tuned for part two, where I'll discuss deepfake legislation with Representative Tony Assam. Back from the Oklahoma House of Representatives.

### ***Rep. Hasenbeck on strengthening OK A.I. policy (Tracking Deepfake Legislation (Part 2))***

00;30;10;00 - 00;30;30;14

**Geoff Pallay**

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Not only on what is being discussed with this legislation, but on how the different states and different parties are thinking about addressing this really new and emerging area of politics related to artificial intelligence innovations and challenges. Let's quickly get caught up. What are deepfake exactly, anyway? You may be wondering. So deepfakes we define as videos, images or audio files that have been generated or manipulated by artificial intelligence in order to realistically portray something that did not actually occur.

That's a pretty technical definition, but you can imagine what it really looks like then. And as this technology has emerged, public policy organizations, lawmakers and journalists have addressed concerns related to the use of deepfake technology. Whether we're talking about the proliferation of child sexual abuse material and other nonconsensual consensual sexual content, or the distribution of deceptive political communications and election disinformation or property rights infringement, harassment and fraud, and threats to national security.

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In this episode, you'll hear my conversation with Toni Hasenbeck, a Republican member of the Oklahoma House of Representatives representing District 65. Representative Hasenbeck has sponsored several bills related to artificial intelligence, one of which being Oklahoma HB 3642, which updated the state's laws on obscenity and child pornography and brought it in what might be considered to be unlawful.

If you liked this episode and don't want to miss out on conversations like this one, make sure to like and subscribe to the show wherever you listen to podcasts. And now here's my conversation with Representative Hasenbeck

All right, Representative Hasenbeck. Thanks for coming on the show today!

00;33;33;29 - 00;34;04;01

**Representative Toni Hasenbeck**

Thanks for having me. I look forward to it.

00;33;33;29 - 00;34;04;01

**Geoff Pallay**

Yeah. So, like I said before, we are re are launching a new, legislation tracker at Ballotpedia on deepfake legislation. And let's learn a little bit more about how you got interested in, crafting deepfake legislation. Tell me a little bit about the the bills that you have, sponsored.

00;33;33;29 - 00;34;04;01

**Representative Toni Hasenbeck**

Okay. thanks for the questions. I guess two summers ago, we started doing some, work about looking at, revenge pornography. I, we now call it non-consensual dissemination of graphic images. That's the, the the courtroom terms that we say. and I did some interim studies, had experts come in. I had sex crimes investigator writers come and talk to us last summer, we kind of repeated that I had this really good bill, and we had a lot of, problems in the first half of the 59th session in the state of Oklahoma. A lot of really good legislation didn't make it make it through both chambers because there was a lot of fighting. And, this last session, I decided to ask the Pro Tempore of the Senate, Greg Treat, to be my bill author on the bills that really, really

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mattered to me.

And then we did dual bills. So I had one and he had one. and we both agreed if, if these bills have to be House bills in order to get them passed, that's fine. If they have to be Senate bills, that's fine. Whatever we had to do to get this legislation passed and, and one of them actually ended up, I was in a fight with the floor leader of my chamber, and I went and asked him, he said, I'll sit through tomorrow, we'll get it done.

And so, that's the first time I've ever really had to fight with my own chamber to get some stuff done. But there were a lot of, well, and I can cover all this. There were a lot of extenuating, reasons which are even more and more disgusting, but basically, I was a school teacher for 19 years, and there we just left some places in our law that we were leaving children unprotected and, learning about, artificial intelligence and all the different ways that predators use children to make money.

I think was really, oh. It's just one of those discoveries you make that you don't sleep at night, and then you learn when you. Because you know that. Then you have to have experts talk about pedophiles who look at children and just that, the whole deviant behavior, their brain gets full of that. And so the brain chemistry tells them to want more so than they want to look younger and younger and younger children.

And so, now we have markets for, infantile pornography. So, whatever we can do to try to put people in jail who are trying to do stuff like that, I, I just, I don't know what greater purpose I might have in the legislature than doing stuff like that. Yeah. And we've seen I mean, there's been a really big increase in the amount of deepfake legislation over the last few years or so.

00;36;29;24 - 00;36;50;15

**Geoff Pallay**

Yeah. And we've seen I mean, there's been a really big increase in the amount of deepfake legislation over the last few years or so. From 2019 to 2022, there were single digit bills enacted nationally, related to this space. And then 2023, there were 12 bills. And just this year so far alone, there have been 45. So I'm kind of curious, as you starting to get into this space, were you able to find resources that were available to you from other states?

Was this something where you think there's been a little bit of a national push, or is this something where you kind of had to call the other bills in your own state off what you had seen?

00;37;07;26 - 00;37;34;18

**Representative Toni Hasenbeck**

Well, I have I sort of have a, I have an example of all three of those in the bills that we got passed. The, the actual what we call the deepfakes. 3642 deepfake bill. I call that one my my, child pornography bill because we had several things with that. We created some language to

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make sure that we could protect children for AI as it exists now, and as it may potentially come to fruition in the future. So how will it change? Can we be ready? Can we have books? Can we have law on the books to protect kids against that change? Then another thing that we did is, I worked really closely with the Attorney General's office because our we have a really good attorney general in the state of Oklahoma, and he has put together this amazing staff. And one of his staff attorneys was a former prosecutor tutor who would have to go into courtrooms and find that that place where once we challenge somebody, a predator challenges to an upper court.

The language that we had in Oklahoma didn't closely follow federal language in order to make the next jump. So in that bill, we we also changed our child pornography laws to make them stronger, not only to to meet the demands of what is actually happening, but also to match the federal language so that when we get a case, we have a family that's willing to go forward.

We can actually make those charges stick a little better. So that bill, I had a great deal of help from the attorney General's office. They actually came to my interim studies, and we just started, working on language, actually in the interim study. And so that was, that was a really easy thing to do. because I was there, you know, as you know, there are all kinds of attorneys and our house staff, I don't know that there's a, a greater set of people working together for a good cause anywhere.

And then the attorney general has put together such a staff. And so we had all these people working towards the same direction. And I'm really, that I'm really proud of that piece of legislation. So that one, we kind of that was like a homegrown homegrown product that I had lots of money. I have another bill to, put predators away who are extorting children. It's typically Snapchat's. I hate giving them this much credit, but it's the Snapchat predator is what we call them, because Snapchat set up so privately, and a lot of parents don't know what their kids are doing on Snapchat. And, and it's common it's very common in our society for a kid to be in their bedroom with their phone, and then they get up and they can go to the bathroom and shut the door.

Even if you have an open door policy in your in your kids bedrooms, it's not uncommon for them to get up and leave. Whereas when I was a kid, there would be like a dozen little fourth grade boys who found a Playboy magazine in the ditch and they'd be running around. And pretty soon some mom would look out the window and see a dozen boys, all grouped in a circle, knowing they're not praying.

And, and then the mom, you know, the moms would make phone calls and you could kind of get around stuff like that. And now these kids had these devices in their hands, and so I can't even remember the bill number on that. It's my, disseminate, non-consensual dissemination and sexually graphic images bill. And that one is one that I, I kind of piece it together on my own.

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Then we had an interim study about it. Then we got the bill passed out of the House, and that's the one that I also went and and grabbed the, the pro tem to help me get that pass because we had I mean, I passed it off the House floor twice 97 to, to nothing. And then I couldn't get it heard again in the end of the session that one the Motion Picture Association had, tried to foil passage of that bill, or some really what I think are just odd reasons. And, I also I kind of feel like they got my, my bill confused. I three bills that all were about the same subject matter. And so I think they, I didn't put them all together and confuse them or something, and so that was really difficult then. I had an age verification for pornography bill that has been tried in other states, and I had daily conversations with, Bill, writers from other states about, making sure that we get this passed. And it's something that we can, you know, both the that one was so the attorney general can go after a company, but also an individual family can go after. So hopefully we'll get some of that stopped. So I got to do all three of those things.

00;42;05;11 - 00;42;36;25

**Geoff Pallay**

Gotcha. Yeah it's really interesting. And there's just a lot of legislative activity. as you're sort of alluding to, what are you think the future of, of deepfake legislation looks like in terms of there's political communication, some of the new deepfakes around ads, and, you know, can campaigns use deepfakes, what they look like, what is disclosure of like was for some like and then there's of course deepfakes with respect to a lot of what you were just talking about pornographic materials non csam. Do you see those two issues being separate? You see that being combined together. What do you see as someone who's worked in this space, as being the future of deepfake legislation?

00;42;36;28 - 00;43;03;25

**Representative Toni Hasenbeck**

Well, I guess to be honest, I hope the, the deepfakes of politics and the deepfakes, Folks who don't put themselves in politics. I hope that stays separate.

I'm someone who has been running for office for ten years. I think I've won four Republican primaries. I've had some pretty hideous stuff go out about me. but at the same time. As much as I hate to say that that kind of thing you do expect when you run for office now, because I'm a public official, I would never expect it to be okay for someone to, like, happens with children, for someone to make a sex tape and put my face on it, that would be.

And I don't think even if you are a movie star, even if you are a, an elected official, if you're a president, I think there should be some, if you're using someone in someone's image to commit a felony, I think it should all be different. but if you're just, you know, putting, you know, Donald Trump's face on my; Well, I don't know how I would feel about somebody putting Donald Trump's face on my body, but, you know, I think there's a certain amount, satire that comes with political, advertisement. And you have to have thick enough skin to understand that's, that kind of stuff is politics. But when you start, you know, delving into things that are not protected by the Constitution, then I think you need to be expected to pay for it.

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An old story about Thomas Jefferson and John Adams, the different and various, deepfake imagery that they use at the time, limited by the technology that they have us, but, that it's not new to our political system, in ours now. And that's funny that you mention that, because I, I saw that if I had a time machine, I would go back in time.

And I was show up at the on the front porch in Monticello with Thomas Jefferson's mincemeat pie. You know, all the history books, but yeah, I, I've said to him a lot and it's like, if you're going to be in politics, you should be you should expect this. But the, the other stuff, I think at least in Oklahoma, I think we have kind of I think we'll have that managed, yeah.

00;45;26;16 - 00;45;57;01

**Geoff Pallay**

Have you found that the bipartisan nature of this issue splits in any way? Is it pretty consistent? you said one of, you know, one of your bills 97 to 0. Well, what does that look like, either in Oklahoma or just nationally? How have you seen this deep issue play out?

00;45;57;01 - 00;46;19;11

**Representative Toni Hasenbeck**

Well, I think enough parents have opened up their children's funds and and had a bad interface with, the internet and, and this type of thing. I know my very first time I ever got on the World Wide Web, I don't even remember what I typed in, but I was trying to get to the Martha Stewart icon because she was my favorite. And her the their website rolled up the screen and then rolled down the screen were nude images. And that was probably 25 years ago.

And so that was my very, very first experience with the World Wide Web. I was also I used to be a school librarian, a library media specialist. So I also, I mean, I did a lot of studying, the First Amendment and your right to privacy and your right to look at things. But what things can you look at?

So that was another layer of this. for me, it's just some things are wrong. Some things are are protected. Even though you might think they are wrong, you can't keep adults from from looking at stuff like that. so I think, I think that part is really easy. Does it matter? It's not really a political issue at all. It's like a safety issue. then in Oklahoma, Republicans have a supermajority in both the House and the Senate. And so, I kind of I'm one of, one of the folks in the house that runs a lot of partisan bills. So any time I bring up a bill at all, I sometimes get hammered on it extra by the minority.

But I fully understand the role of the minority is to slow us down. And I'm always prepared for, a lot of questioning when I bring a bill to the House floor. So, but in the end, they typically will vote for things that that have to do with doing what's best for the safety of, of our citizens.



## Tracking Deepfake Legislation – Two-Part Series (Transcript)

00;47;46;18 - 00;48;13;22

**Geoff Pallay**

So what do you see with the future and the next couple of sessions for, for this topic area? obviously, you know, sessions and states have various different calendars and timelines, and some states were in session this year and won't be next year and vice versa. But, where do you see this going ? I mean, I would say deep fakes are just really scratching the surface and just starting out. How do you see states evolving with what they're doing on this issue?

00;48;13;24 - 00;48;39;25

**Representative Toni Hasenbeck**

Well, I would like to think that there are there's probably an educator in every legislature in the country. And, as teachers, you have to deal with a lot of things. And, unfortunately, kids having pornography in their hands at school is not an uncommon, issue.

And so hopefully there's enough people that understand, hey, we need to get ahead of this because we've got I mean, there's there are kids dying. you know, a child gets talked into sending an image and then it gets sent to their friends. And 14, 11, 12, 14 year old children who a, their little brains are different. They grew up with iPads in their hands. Their brain chemistry is not the same as kids brain chemistry, whose mom kicked them outside. And if you get thirsty, there's a water hose in the front yard. yeah. Our brain chemistry is a little bit different now, and I've noticed that myself. Like, I, I'm always I always have to have that phone in my hand.

I'm always checking on stuff. And then I realize, like, you got to go plug this in and go outside. And so I do think that there's kind of an up swelling of that. I know about five years ago, some of the first Apple app creators that maybe not app creators, the guys that worked in Apple who were perfecting apps to put them in the hands of, of users, they started having children and they realized that, whoa, this is not what's supposed to be happening with the child.

We should never let our kids have an iPhone in their hands when they're developing in their brain is developing. And so I think apps have changed a little bit. But a lot of people, if you're not working on that science side of the brain, you're not realizing what's happening to your kids, and it's probably happening to you as an adult as well.

00;50;21;11 - 00;50;49;13

**Geoff Pallay**

Just to sort of clarify for our listeners, I think one of the things that you're getting at is, the concept of pornography is not new in our society, but what what deepfakes do differently is they allow pornography to be distributed more easily to, to minors because they can create pornography at a much bigger way, can you expand a little more on, why why deepfakes actually increase the, the ease of for material distribution?

## Tracking Deepfake Legislation – Two-Part Series (Transcript)

00;50;49;17 - 00;51;12;20

### Representative Toni Hasenbeck

Well, it kind of goes back to how kids get introduced. And, we have a problem in our society with just like I mentioned before, it's normal for the kids to go in their rooms and be by themselves and have their phones. And so if somebody gets a hold of them and sends them imagery, then they get desensitized and they think, this is okay, this is normal.

And then they have no idea where it comes from. It can be a real image, it could be a created image. But what the the downfall of that is somebody can create an image with that child's picture, and now it gets sent out and it looks like it's that child involved in the pornographic act. And so, that's a huge problem that that's what my, the original bill. The one reason that that you invited me here today, that's what that bill. Really, helps to stop. And so, I, I honestly, I can see this being kind of limitless, which is really frightening. And so I, I hope that there are folks in other states that really want to take a deep look at that. I, I, even some of the groups, and I get confused about who I thought on on what bill because I had better attorneys in my office.

I had, I think Twitter is the only group that didn't send people to my office, but all of the internet service providers, and it's like, now, this doesn't affect your bill. You can't determine what your people download you. All you're doing is giving them internet access. So we're not even we're not worried about anything. You can't be you're held harmless for anything that your clients do because you we it's not how we, regulate the internet.

And so, but one of the issues was, well, what if someone wanted to create a documentary and where a child was being abused and we wanted to create the, the, you know, an AI face and body? And I said, well, if you're depicting a child being abused, that's obscenity. According to the Constitution. So that would be illegal in the state of Oklahoma, as well as all the other states in the union.

So I think there's just a lot of these issues that people think it's okay if it's AI and it's not okay if it's AI, and especially if you're the one whose image they're using to create that. I, if they're making it look like that's you and your skin, it's just the same as as if it were your skin, because the average consumer would not be able to tell the difference.

Well, it's certainly, not going to be an issue that goes away and changes things. and it's not it's not anything to talk about. And if yes, like, I would rather I mean, I, I threatening all of my colleagues that I'm just going to make a bill that says the state breakfast is pancakes and bacon. Like I just, you know, that would be fun, wouldn't it?

At the end of the day, I mean, I've just, I've dealt with with those kinds of issues in my home and in my classroom and so, we just have to talk to our kids.

## Tracking Deepfake Legislation – Two-Part Series (Transcript)

00;54;13;21 - 00;54;46;11

**Geoff Pallay**

Yeah. one more question, which is, you know, this isn't the first time that new technology has, has come about. And, and, of course, our, our government and our leaders to question, what do we do now? So, you know, on the internet came out, you know, people probably ask questions like, well, how do we regulate this thing, this new technology, this new, device at our disposal? And when cell phones here out, same kind of thing. Well, what, if anything, can you take from those prior experiences from from governments, from legislators, from politicians and from leaders and might help inform how we're going to societally approach deepfakes going forward?

00;54;46;13 - 00;55;14;28

**Representative Toni Hasenbeck**

I think that we've got to, stay current and understand what's going on out there. I think we have to listen to our our constituents. We have to be aware, you know, someone brings a problem to you. I mean, I had over a hundred families come to me over the, the meditation videos. And after about the first 60, then I started trying to write legislation to fix that.

and then, so I think listening to people when they tell you something's a problem, then, you know, and another layer to this is really not what you asked, but I think it's important to understand, I was I've been for four years. I've been working on some domestic violence legislation. in Oklahoma, you're if you're a woman, your, this is the number one state to be killed by a man if you are a woman. It's a weird statistic, but it's kind of wild. And in the state of Oklahoma, we have all of these gun laws that say you can shoot anybody you want practically, if they're trying to harm you or hurt you. Problem is, if you shoot your domestic partner inside your home and you're a woman, you're very likely you're going to spend the rest of your life in jail so you can protect yourself.

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Except if you're protecting yourself against your intimate partner, who is probably a man. So that's been that's one of the layers. And what we've learned is, in domestic violence, videos of rape, torture and sex are used against women as a coercion method to keep them quiet and to keep to make them stay. So, all of this stuff kind of goes together.

And I think the more people understand, like, we've been having these conversations in Oklahoma for, for years. And so I have all kinds of people saying, what can we do to make this stop? When people hear that this happens, it is absolutely common sense. We have to stop this. We can't stop it. We need to make sure if we catch somebody that they're going to go to jail for a long, long time.

And so, I think that's the biggest thing, is for people to just understand what's going on and understand who's who's committing these crimes. And we also that, we also put a click in that bill, like, if it's a 17 year old child who, shares an image with his buddies, one time a judge will have the discretion to not make him a sexual predator.

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So. So that kind of stuff has to be built in the law, too. We have to make we have to look at every single case and not paint them with the same brush. As a 65 year old man pretending to be a 14 year old child who's done this 20 times a day for the last five years. So I guess that that's how we need to regulate it.

00;57;39;10 - 00;58;01;06

**Geoff Pallay**

Thank you for your time today Representative Hasenbeck. Thank you for coming on the show. And, listeners can follow along with deepfake legislation with our, legislation tracker at Ballotpedia.org. Thank you so much for your time. Hey, thanks for having me—

00;58;01;07 - 00;58;09;00

**Representative Toni Hasenbeck**

Hey, thanks for having me—Maybe next time we can talk about something more fun, like parenting styles!

00;58;10;09 - 00;58;25;09

**Geoff Pallay**

Thanks for listening to the episode with Representative Toni Hasenbeck. In case you missed part one, I interviewed Senator Joe Nguyen from Washington State Senate, talking about what legislative activity around deepfakes that has been taking place in Washington. You can find that episode in your feed.